

DEPARTMENT OF CORPORATIONS
*California's Investment and Financing Authority***WAYNE STRUMPFER**
Acting California Corporations Commissioner
Sacramento, CaliforniaIN REPLY REFER TO:
FILE NO: PRO 22/01**INVITATION FOR COMMENTS ON ADMINISTRATIVE REGULATION UNDER THE
CORPORATE SECURITIES LAW****NOTICE**

Pursuant to Government Code Section 11346(b), the Department of Corporations (the "Department") is inviting comments from interested persons to address whether the Department should adopt additional qualification standards for mortgage programs, as discussed below.

Comments from interested persons will assist the Department in determining whether amendments are necessary, appropriate, and adequate.

**COMMENTS REQUESTED ON THE NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATION (NASAA) GUIDELINES**

Under the Corporate Securities Law of 1968, the Commissioner of Corporations (Commissioner) is responsible for regulating the offer and sale of securities. This law makes it unlawful to offer or sell a security in this state unless the transaction is qualified (reviewed and approved) by the Commissioner, or is exempt or excluded from qualification. Title 10, California Code of Regulations, Sections 260.140 et seq., set forth the qualification standards of the Commissioner. Existing law does not include rules that specifically regulate the qualification of direct participation mortgage programs. The Department has applied rules related to real estate programs in reviewing applications for qualification of direct participation mortgage programs. The Department believes that it is necessary to consider adopting rules that specifically regulate these types of investment transactions including, but not limited to, investments in multi-lender securities transactions.

NASAA has developed and adopted uniform guidelines for the qualification of mortgage programs. These NASAA guidelines have already been adopted in seven other states. The Department is considering adopting the NASAA guidelines, and is considering modifications as described below, to apply to qualification of direct participation mortgage programs in the form of limited partnerships, trusts, limited liability companies, and limited liability partnerships, and applied by analogy to

- ♦ Securities ♦ Franchises ♦ Off-Exchange Commodities ♦ Investment and Financial Services ♦
♦ Independent Escrows ♦ Consumer and Commercial Finance Lending ♦ Residential Mortgage Lending ♦

mortgage programs in other forms, including but not limited to, multi-lender programs. In addition to determining whether the amendments are necessary, appropriate, and adequate, the Department is seeking a broad range of comments on whether the regulations will help deter fraudulent or deceptive business activities. In soliciting comments, the Department seeks to ensure that all interests are fairly represented and considered before any amendments to the rules are proposed for adoption.

COMMENTS REQUESTED ON MODIFICATIONS TO THE NASAA GUIDELINES

In addition to considering the adoption of the NASAA guidelines to govern the qualification of mortgage programs, the Department also solicits comments on the following:

1. Whether Section III.A.2 of the NASAA guidelines should be revised to require the sponsor to propose both minimum net worth and minimum income standards for the Commissioner's consideration.
2. Whether Sections III.B.1.a and III.B.1.b of the NASAA guidelines should be revised to increase the investor suitability standards from a minimum of \$45,000 in net worth and gross income to \$65,000, and to increase the minimum net worth standard alone from \$150,000 to \$250,000.
3. Whether Sections V.H.2.a and V.H.2.b of the NASAA guidelines should be revised to require disclosure of both the circumstances and terms of the loan, and a written opinion from an independent and qualified adviser.
4. Whether Section V.I.5.b of the NASAA guidelines should be revised to increase the investor suitability standards from a minimum of \$60,000 in gross income to \$65,000, to increase the minimum net worth standard from \$225,000 to \$250,000, and to permit the investor to meet the suitability standards based on a minimum net worth alone of \$500,000. The NASAA Guidelines do not permit the investor to meet the minimum standards based only on net worth.
5. Whether the NASAA guidelines should be revised to include a requirement that the sponsor must provide a statement indicating whether the sponsor is licensed, or exempt from licensure, as a real estate broker pursuant to Business and Professions Code 10000 et seq. If the sponsor is exempt, the sponsor must also provide an explanation of the reasons for the exemption. The NASAA Guidelines do not require this statement.

AVAILABILITY OF THE NASAA GUIDELINES

The NASAA Mortgage Program Guidelines are available on the Department's website located at www.corp.ca.gov, at the "Rulemaking" link, under the heading of "Invitation for Comments."

TIME FOR COMMENTS

The Department requests comments be received by: September 22, 2006.

WHERE TO SUBMIT COMMENTS

Please reference PRO 22/01 in correspondence to the Department. Please submit comments as follows:

Karen Fong
Office of Law and Legislation
1515 K Street, Suite 200
Sacramento, CA 95814-4052

Written comments may also be sent to Karen Fong (1) via electronic mail at regulations@corp.ca.gov or (2) via fax at (916) 322-5875.

CONTACT PERSONS

Non-substantive inquiries concerning this INVITATION FOR COMMENTS, such as requests for copies of documents or questions regarding timelines, may be directed to Karen Fong at (916) 322-3553. Inquiries regarding the substance of this invitation for comments may be directed to Peggy Fairman at (916) 324-5217.

Dated: June 7, 2006
Sacramento, California

WAYNE STRUMPFER
Acting California Corporations Commissioner

By _____
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